UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 16-232 (DWF/LIB)

UNITED STATES OF AMERICA, Plaintiff,	)	PLEA AGREEMENT AND SENTENCING STIPULATIONS
v.	)	
MORGAN JAMES BAUMANN, Defendant.	)	

The United States of America and the defendant, MORGAN JAMES BAUMANN, agree to resolve this case on the following terms and conditions. This plea agreement binds only the defendant and the United States Attorney's Office for the District of Minnesota. It does not bind any other United States Attorney's Office or any other federal or state agency.

1. **Charges.** The defendant agrees to plead guilty to Counts 1, 2 and 4 of the indictment. Count 1 charges the defendant with conspiracy to distribute 500 grams or more of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A) and 846. Count 2 charges the defendant with possession of a machinegun in violation of 18 U.S.C. §§ 922(o)(1) and 924(a)(2). Count 4 charges the defendant with being a felon in possession of firearms in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). The government agrees to move the Court to dismiss Counts 3 and 5 of the indictment at the time of sentencing.

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2. **Factual Basis.** The defendant agrees to the following facts and further agrees that, were this matter to go to trial, the United States would prove the following facts beyond a reasonable doubt:

a. From the fall of 2015 and continuing through on or about April 8, 2016, the defendant conspired with numerous others to distribute 500 grams or more of methamphetamine. During the period of the conspiracy, the defendant obtained multiple-pound quantities of methamphetamine from Todd Thomas Malley and others on a weekly basis which he then distributed in the Duluth, Minnesota, area. During the period of the conspiracy, the defendant obtained and distributed at least 15 kilograms but less than 45 kilograms of methamphetamine (containing at least 1.5 kilograms but less than 4.5 kilograms of actual methamphetamine).

b. On January 17, 2015, in Duluth, Minnesota, the police stopped a vehicle in which the defendant was a passenger. The police seized a STEN-type nine-millimeter caliber firearm, identification number C13801, which qualifies as a machinegun under federal law. The defendant's DNA was later found on the firearm.

c. On April 7, 2016, in Duluth, Minnesota, the police executed a search warrant at a residence frequented by the defendant. The police seized approximately one ounce of methamphetamine, about 15 grams of which was found near several items of the defendant's personal property, including his passport. The police also seized various drug paraphernalia, ammunition, and three firearms.

d. On April 8, 2016, in Duluth, Minnesota, the police seized the firearms and the body armor listed in Counts 4 and 5 of the indictment, as well as parts for another

STEN-type machinegun in Wisconsin. The defendant was storing these items at various locations in the Twin Ports area. At the time, the defendant had previously been convicted of the crimes alleged in Count 4 of the indictment. The firearms had all previously traveled in interstate commerce and meet the definition of firearms under federal law.

e. The defendant stipulates and agrees that he conspired to distribute the above-described methamphetamine; that he knowingly possessed the firearms referenced in paragraphs 2.b. and 2.d, above; that he knew the STEN-type nine-millimeter caliber firearm was a machinegun; that he acted voluntarily; and that he knew his actions violated the law.

3. **Waiver of Pretrial Motions.** The defendant understands and agrees that he has certain rights to file pretrial motions in this case. As part of this plea agreement, and based upon the concessions of the United States contained herein, the defendant knowingly, willingly and voluntarily agrees to give up the right to file any pretrial motions.

4. **Statutory Penalties (Count 1)**. The parties agree that Count 1 of the indictment carries the following statutory penalties:

a. a mandatory minimum of 10 years in prison;

b. a maximum of life imprisonment;

c. a supervised release term of at least five years and up to life;

d. a fine of up to $10,000,000;

e. the forfeiture of drug-related assets; and

f. a mandatory special assessment of $100.00.

5. **Statutory Penalties (Counts 2 and 4)**. The parties agree that Counts 2 and 4 of the indictment carry the following statutory penalties:

a. a maximum of 10 years in prison;

b. a supervised release term of three years;

c. a fine of up to $250,000; and

d. a mandatory special assessment of $100.00.

6. **Additional Consequences**. The defendant understands that as a result of the defendant's conviction on Count 1, he could be assessed the costs of prosecution and be denied certain federal benefits pursuant to 21 U.S.C. § 862(a)(1).

7. **Revocation of Supervised Release**. The defendant understands that if the defendant were to violate any condition of supervised release, the defendant could be sentenced to an additional term of imprisonment up to the length of the original supervised release term, subject to the statutory maximums set forth in 18 U.S.C. § 3583.

8. **Guideline Calculations**. The parties acknowledge the defendant will be sentenced in accordance with 18 U.S.C. §§ 3551, *et seq.* Nothing in this plea agreement should be construed to limit the parties from presenting any and all relevant evidence to the Court at sentencing. The parties also acknowledge the Court will consider the United States Sentencing Guidelines in determining the appropriate sentence and stipulate to the following guideline calculations:

a. Base Offense Level. The parties agree that the base offense level in this case is driven by Count 1 of the indictment. The parties agree that the base offense level for Count 1 is 36 (at least 15 kilograms but less than 45 kilograms of methamphetamine containing at least 1.5 kilograms but less than 4.5 kilograms of actual methamphetamine). USSG § 2D1.1(c)(2).

b. Specific Offense Characteristics. The parties agree that the offense level for Count 1 should be increased by two levels because the defendant possessed firearms in connection with the offense. USSG § 2D1.1(b)(1)). The parties agree that no other specific offense characteristics apply in this case as to Count 1 of the indictment.

c. Acceptance of Responsibility and Other Chapter Three Adjustments. The parties agree that if the defendant (1) provides full, complete and truthful disclosures to the United States Probation and Pretrial Service Office, including providing complete, accurate and truthful financial information; (2) complies with all conditions of release, including not using illegal substances; (3) testifies truthfully during the change of plea and sentencing hearings; (4) complies with this agreement; and (5) undertakes no act inconsistent with acceptance of responsibility before the time of sentencing, the government agrees to recommend that the defendant receive a two-level reduction for acceptance of responsibility under USSG § 3E1.1(a), and to move for an additional one-level reduction under § 3E1.1(b). Whether there will be a reduction for acceptance of responsibility shall be determined by the Court in its discretion. The parties agree that no other Chapter Three adjustments apply in this case.

d. Criminal History Category. Based on the information currently available, to the government believes that the defendant has a criminal history category of VI. The defense believes that the defendant's criminal history category is V. The defendant's actual criminal history category will be determined by the Court based on the information presented in the presentence investigation and by the parties at the time of sentencing.

e. Guideline Range. If the defendant's total offense level is 35 (base offense level of 36, increased by two levels for possession of firearms, and decreased by three levels for acceptance of responsibility), and his criminal history category is VI, the guideline range would be 292 to 365 months in prison. If the defendant's criminal history category is V, the guideline range would be 262 to 327 months in prison.

f. Fine Range. If the total offense level is 35, the fine range would be $40,000 to $10,000,000. USSG § 5E1.2.

g. Supervised Release. The Sentencing Guidelines call for a term of supervised release of five years. USSG § 5D1.2.

h. Sentencing Recommendation and Departures. The parties reserve the right to make departure motions and to oppose any such motions made by the opposing party. The parties also reserve the right to argue for a sentence outside the applicable guideline range.

9. **Discretion of the Court**. The foregoing stipulations bind the parties but not the Court. The parties understand the Sentencing Guidelines are advisory and their application is a matter falling solely within the Court's discretion. The Court may make its own determination regarding the applicable guideline factors and the applicable criminal history category. The Court may also depart from the applicable Guidelines. If the Court determines the applicable guideline calculations or the defendant's criminal history category are different from that stated above, the parties may not withdraw from this agreement, and the defendant will be sentenced pursuant to the Court's determinations.

10. **Special Assessments**. The Guidelines require payment of a special assessment in the amount of $300. USSG § 5E1.3. The defendant agrees to pay the special assessment on the day of sentencing.

11. **Forfeitures**. The defendant agrees to forfeit to the United States, pursuant to 18 U.S.C. § 924(d)(1), 21 U.S.C. § 853(a), and 28 U.S.C. § 2461(c) all of the defendant's right, title and interest in the property described in the Forfeiture Allegations of the Indictment.

12. **Waiver of Freedom of Information Act and Privacy Act**. The defendant waives all rights to obtain, directly or through others, information about the investigation

and prosecution of this case under the Freedom of Information Act and the Privacy Act of 1974, 5 U.S.C. §§ 552, 552A.

13. **Waiver of Appeal**. The parties are expressly aware that Title 18, United States Code, Section 3742, affords them the right to appeal the sentence imposed in this case. Acknowledging this right, the parties hereby waive all rights conferred by Title 18, United States Code, Section 3742, to appeal the sentence on any ground except the defendant may appeal the sentence if the term of imprisonment imposed is greater than 327 months, and the government may appeal the sentence if the term of imprisonment imposed is less than 262 months.

14. **Complete Agreement**. This, along with any agreement signed by the parties before entry of plea, is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Dated: 11/21/2016

ANDREW M. LUGER
United States Attorney

BY: THOMAS M. HOLLENHORST
Assistant United States Attorney
Attorney ID No. 46322

Dated: 11-21-16

MORGAN JAMES BAUMANN
Defendant

Dated: 11/22/2016

CRAIG S. HUNTER, ESQ.
Attorney for Defendant